paragraph (c) of § 53.131 have application as to the evidence required in support of tax-free sales. If a State or local government is not registered, the evidence required in support of a tax-free sale to the State or local government shall, except as provided in paragraph (c)(2) of this section, consist of a certificate, executed and signed by an officer or employee authorized by the State or local government to execute and sign the certificate. If it is impracticable to furnish a separate certificate for each order or contract because of frequency of purchases, a certificate covering all orders between given dates (such period not to exceed 12 calendar quarters) will be acceptable. The certificates and proper records of invoices, orders, etc., relative to tax-free sales must be retained by the manufacturer as provided in § 53.24(d). A certificate of exemption to support tax-free sales under this section must contain the following:

(i) Title of official executing certificate, branch of government, date executed, and statement that official is authorized to execute certificate.

(ii) List articles covered by the certificate or beginning and ending dates during which orders will be placed by the purchaser (period not to exceed 12 calendar quarters).

(iii) Name of manufacturer from which articles purchased.

(iv) Governmental unit purchasing articles.

(v) Statement that is understood that articles purchased under this certificate of exemption are limited to use exclusively by the purchasing governmental entity.

(vi) Statement that is understood that any fraudulent use of this certificate may subject the person executing the certificate and all parties making fraudulent use of the certificate to all applicable criminal penalties under the Code.

(vii) Name, address, and signature of person executing the certificate.

(2) * * *

(3) *ATF I 5600.35.* A preprinted certificate, ATF I 5600.35, Exemption Certificate, is available from the Bureau's Distribution Center which, when completed, contains all necessary information for a properly executed certificate. Extra copies of ATF I 5600.35 may be reproduced as needed.

* * * * *

Par. 8. Section 53.179 is amended by revising paragraph (b)(1)(iii) and by adding paragraph (b)(1)(iv) to read as follows:

§ 53.179 Supporting evidence required in case of manufacturers tax involving exportations, uses, sales, or resales.

* * * * *

(b) * * *

(1) * * *

(iii) *Certificate of ultimate vendor.* Any certificate executed and signed by an ultimate vendor as evidence to be retained by the person who paid the tax as provided in paragraph (a)(4) of this section may be executed with respect to any one or more overpayments by the person which arose under section 6416(b)(2) and § 53.178 by reason of exportations, uses, sales or resales, occurring within any period of not more than 12 consecutive calendar quarters, the beginning and ending dates of which are specified in the certificate. A certificate supporting a claim for credit or refund under this section shall contain the following:

(A) Name of ultimate vendor if other than person executing the certificate.

(B) Statement that article(s) was purchased by the ultimate vendor tax-paid and was thereafter exported, used, sold, or resold.

(C) Description of proof which supports exportation or certificate as to use executed by ultimate purchaser.

(D) Statement that ultimate vendor retains such proof for 3 years from the date of the statement and will, upon request, supply such proof at any time within such 3 year period to the taxpayer to establish that credit or refund is due in respect of the article.

(E) Statement that to the best knowledge and belief of the person executing the certificate, no statement in respect of the proof of exportation or certificate has previously been executed and that the person executing the certificate understands that any fraudulent use of the certificate may subject the person executing the certificate or any other party to all applicable criminal penalties under the Code.

(F) Name, title, address and signature of person executing certificate and date signed.

(G) Description of all articles covered by the certificate, with the corresponding vendor's invoice number, date of resale of article, quantity, whether articles were exported or used and the use made of article or to be made of article.

(iv) *ATF I 5600.33.* ATF I 5600.33, Statement of Ultimate Vendor, is available from the Bureau's Distribution Center which, when completed, contains all necessary information for a properly executed certificate. Additional copies may be reproduced as needed.

* * * * *

Signed: May 30, 1996.

Bradley A. Buckles,

Acting Director.

Approved: June 10, 1996.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 96–17995 Filed 7–15–96; 8:45 am]

BILLING CODE 4810–31–P

Fiscal Service

31 CFR Part 356

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (Department of the Treasury Circular, Public Debt Series No. 1–93)

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (''Department'') is issuing an amendment to its regulations governing the sale and issue of marketable book-entry Treasury securities (Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds). The amendment defines the term ''investment adviser'' and contains a new section on bidding through investment advisers. The amendment also makes certain technical and clarifying changes.

EFFECTIVE DATE: The amendment is effective on September 16, 1996.

FOR FURTHER INFORMATION CONTACT: Donald V. Hammond, Assistant Director, Government Securities Regulations Staff, Bureau of the Public Debt (202) 219–3632; or Margaret Marquette, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt (202) 219–3320.

SUPPLEMENTARY INFORMATION:

I. Background

31 CFR part 356, also referred to as the uniform offering circular, sets out the terms and conditions for the sale and issuance by the Department of the Treasury to the public of marketable book-entry Treasury bills, notes, and bonds. The uniform offering circular was originally published on January 5, 1993 (58 FR 412), as a comprehensive statement of those terms and conditions. Amendments to the circular were published on June 3, 1994 (59 FR 28773), and March 15, 1995 (60 FR 13906). In the time since the rule was

first published, several questions have arisen about the application of the circular in situations where an investment adviser formulates a bid or otherwise makes bidding decisions for a managed or controlled account. In response, the Department is defining the term ''investment adviser'' and is setting out the specific terms and conditions for bidding through investment advisers.

Previously, the treatment of investment advisers was found in a discussion in the preamble to the January 5, 1993, publication. The preamble and rule did not specify how the various provisions of the rule should be applied with respect to accounts that participate in auctions through investment advisers, leaving ambiguous the answers to a number of technical questions. Accordingly, the Department published a proposed amendment on January 5, 1996,[1] which provided a definition of the term ''investment adviser'' and clarified how the provisions of the uniform offering circular would be applied to bids submitted for accounts that are managed by investment advisers (controlled accounts). Additionally, the existing exclusion for certain controlled accounts on whose behalf an investment adviser is not bidding in an auction was proposed to be substantially modified. The proposed modification would have reduced from $500 million to $10 million the dollar threshold applied to the position of a non-participating controlled account in determining eligibility for the exclusion.

Though not required to, the Department published the clarifications and changes in proposed form in order to receive the full benefit of input from affected auction participants. The comment period closed on March 5, 1996.

II. Comments Received in Response to the Proposed Rule

The Department received one comment letter, from the Public Securities Association (PSA), in response to the proposed amendment.[2] The PSA letter strongly supported the clarifications and guidance that the proposed amendment provided but expressed significant objections to the proposed modification of the exclusion available for non-participating controlled accounts.

[1] 61 FR 402 (January 5, 1996).

[2] March 4, 1996, letter from Stephanie Wolf, Assistant General Counsel, Public Securities Association, to Kenneth R. Papaj, Director, Government Securities Regulations Staff, Bureau of the Public Debt.

A. Definition of Investment Adviser

The PSA supported the definition for the term ''investment adviser,'' which also describes what is meant by the phrase ''investment discretion.'' However, the PSA stated that the phrase ''or otherwise exercises control,'' describing investment discretion in the proposed definition, introduces an element of ambiguity. It was noted that the current net long position reporting requirement, which the definition seeks to clarify, uses the phrase ''exercising control'' which has been understood to mean the exercise of investment discretion. With the addition of the definition of the term ''investment adviser,'' the commenter believes that inclusion of a general provision such as ''or otherwise exercises control'' raises the question as to what other types of control might exist and is contrary to the intent behind the amendment. The Department agrees and has deleted the phrase from the final definition.

B. Bidding Through Investment Advisers

The PSA expressed support for the codification and clarification of the manner in which investment advisers may bid for their controlled accounts. The commenter requested that the application of the restriction against noncompetitive and competitive bidding in the same auction be addressed for the situation in which an investment adviser bids both competitively for its own proprietary account and noncompetitively for its controlled accounts in the names of those accounts. As stated in § 356.15(a) of the proposed rule, an investment adviser may bid for a controlled account either in the name of the investment adviser, in which case the adviser is considered the bidder, or in the name of the account, in which case the account is considered the bidder. This means that, for purposes of bidding noncompetitively, an investment adviser that bids for its controlled accounts in the name of the adviser is limited to the maximum allowed bid and award amount for a noncompetitive bid for that auction, e.g., $1 million total in a bill auction. An investment adviser that bids noncompetitively for its controlled accounts in the names of the accounts may bid for each account for the maximum allowed noncompetitive amount, e.g., $1 million for each account in a bill auction. Additionally, the investment adviser may not bid for the controlled account both competitively and noncompetitively in the same auction, regardless of whether the bidding is in the name of the adviser or in the name of the controlled account.

The proposed rule did not specifically address, with respect to the restriction against bidding both competitively and noncompetitively in the same auction, the situation in which an investment adviser is bidding for its own account in the same auction that it is bidding for controlled accounts. It is the Department's intention that the proprietary account of an investment adviser be treated in the same manner as that of any other bidder.[3] In other words, an investment adviser may bid competitively in its own name for its proprietary account so long as it is also not bidding noncompetitively in its own name. Therefore, if a controlled account is being bid for noncompetitively in the name of the account, the investment adviser may bid competitively in its own name for its proprietary account. It may also bid competitively, in the name of the investment adviser or the account, for any controlled accounts that are not being bid for noncompetitively. However, the investment adviser may NOT bid both competitively and noncompetitively in its own name in the same auction, regardless of whether the bids represent its own account or controlled accounts. Also the investment adviser may not bid both competitively and noncompetitively in the same auction for any one controlled account, regardless of whether the bid is in the name of the investment adviser or in the name of the account.

C. Reporting Net Long Positions

The proposed rule stated that, in determining if it has reached the $2 billion net long position reporting threshold, an investment adviser must include in its calculation those bids and positions it controls in addition to bids and positions it would otherwise have to include as a bidder. This provision clarified the existing requirement for the calculation of a net long position. The proposal also contained a significant change from the current rule in the amount of a controlled account's position that may be excluded from the investment adviser's net long position calculation. The rule currently allows the adviser to exclude net long positions

[3] An investment adviser, under the bidder definitions, may itself need to be aggregated with its affiliates as part of a larger bidder. The restriction against bidding both noncompetitively and competitively in the same auction is applicable to all the affiliates that are required to be aggregated since they form a single bidder, i.e., if an entity is bidding competitively in an auction, an affiliate of that entity may not bid noncompetitively in the same auction, unless that affiliate has received recognition as a separate bidder.

less than $500 million for certain controlled accounts that are not bid for in an auction. The proposal provided for a similar type of exclusion but decreased the amount to $10 million per controlled account.

The PSA strongly objected to the proposed change. While understanding the Department's objective of obtaining more information than is currently provided about the positions that an investment adviser may control, the commenter believed that this objective could not justify the cost to auction participants of reporting on controlled accounts at the significantly reduced amount. It was the commenter's opinion that in order to include controlled accounts at a $10 million threshold within the current net long position reporting timeframes, auction participants would have to develop automated systems to track the information. The PSA represented that the cost to develop such systems would be prohibitive and might adversely affect investment advisers' participation in auctions. Accordingly, the PSA recommended that the Department retain the current exclusionary amount or set a lower amount that would not impose such significant costs. The letter did not provide any suggestions for an appropriate alternative amount. Additionally, the commenter did not address the alternative approach for an exclusion discussed in the proposal or offer any other approaches for providing Treasury with better information about the size of a position that an investment adviser might control.

The reduction in the exclusionary amount was proposed because the Department believes that a lower amount is necessary to give a more accurate picture of the amount of a security controlled by an investment adviser. The Department is sensitive to the concerns of auction participants about the cost of compliance with the auction rules and recognizes, in particular, that the net long position reporting provisions are costly because of the scope of the aggregation provisions and the short reporting timeframe. Balanced against this compliance cost is the Department's goal of avoiding undue concentrations of ownership or control upon original issue. The net long position report is an essential tool in achieving this goal.

In developing the proposal, the Department considered and rejected alternatives, such as providing investment advisers an exclusion based on an aggregate amount rather than separate position amounts in specific accounts, because of a concern that they would be more burdensome or costly for advisers. Nothing in the comment letter would lead the Department to a different conclusion. Therefore, the approach outlined in the proposal is believed to be the best approach for excluding non-participating accounts.

However, a cost-effective exclusion threshold needs to be determined. A tradeoff exists between the time and cost necessary for an investment adviser to determine the holdings of non-participating controlled accounts and the meaningfulness of the net long position information submitted with the bid. The higher the exclusion amount the less costly compliance is for the investment adviser, but also the less useful the information is to the Department. The higher the threshold the fewer number of nonparticipating controlled accounts that would be needed to control a significant undisclosed position in the auctioned security. After due consideration of the potential compliance costs versus the usefulness of the net long position report, the Department has determined that an exclusion threshold of $100 million is appropriate. A $100 million threshold is at a high enough level that relatively few managed accounts should be affected, thus minimizing systems and compliance costs, and yet is low enough that Treasury will receive useful information on the control of the security.

D. Other Comments

The PSA letter briefly discussed the modification that would allow investment advisers to submit bids for their controlled accounts directly to a Federal Reserve Bank or to the Bureau of the Public Debt. The PSA did not object to the proposed change but observed that it had no impact on its membership since its members are all either banks or broker-dealers who are already authorized to submit bids for others directly. The provision allowing an adviser to submit or forward bids in the names of its controlled accounts is an exception to the restriction against anyone other than a depository institution or dealer submitting or forwarding bids for others. The Department reiterates that it is not its intent to authorize an investment adviser that does not also meet the definition of a depository institution or dealer to submit or forward bids for customers. A controlled account is not the same as a customer since, unlike a customer, the beneficial owner of a controlled account is not involved in determining the terms of the auction bid and is generally not aware of the bid until after the fact. (See the definition of ''customer'' in § 356.2 which refers to directing a depository institution or dealer to bid for a specified amount of securities in a specific auction.)

III. Changes from the Proposed Rule

In § 356.2, the definition of ''investment adviser'' has been modified to delete the phrase ''or otherwise exercises control'' in response to a comment from the PSA. The Department believes that this deletion does not affect the intended meaning of the definition and that the change reduces possible confusion.

The language of § 356.15(b) regarding competitive and noncompetitive bidding has not been changed. However, the Department is clarifying that the provision permits an investment adviser to bid competitively for its proprietary account and noncompetitively for one or more controlled accounts in the same auction provided that the noncompetitive bids are in the names of the controlled accounts. The investment adviser would not be permitted to bid both competitively and noncompetitively in the adviser's name in the same auction, regardless of which accounts the bids are for; nor would the adviser be allowed to bid both competitively and noncompetitively for a controlled account. (See Discussion in Section II.B. of this release.)

The only change to proposed § 356.15(c) is the dollar level of the exclusion threshold. The $10 million threshold proposed was strongly criticized by auction participants as being at a level so low as to cause them to incur substantial compliance costs which they believed could not be justified by the benefits received by Treasury. Upon due consideration of this comment and further discussions with the commenter, the Department has concluded that a threshold of $100 million would be more appropriate. This revised threshold provides sufficient additional information about the size of positions controlled by an investment adviser while not imposing unreasonable costs on affected entities. (See Discussion in Section II.C. of this release.)

The proposed changes in §§ 356.11, 356.13, 356.21, and 356.22, as well as appendix A to part 356, are being adopted as proposed. Other sections have been renumbered as a result of adding new § 356.15. Additionally, § 356.36 has been amended to reflect approval under the Paperwork Reduction Act of the new information collections in § 356.15.

IV. Procedural Requirements

The rule does not meet the criteria for a ''significant regulatory action'' pursuant to Executive Order 12866.

Although the rule was published in proposed form to secure the benefit of public comment, the notice and public procedures requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

The collection of information contained in this rule, in § 356.15, has been reviewed and approved by the Office of Management and Budget under section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) under Control Number 1535–0112. Under the Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

This information is being collected by the Department in order to determine the amount of a Treasury security controlled by an investment adviser bidding competitively in an auction for that security. The information will be used for the purpose of determining the award to be made as the result of a competitive bid for a security. Responses to the collection of information are required in order for the potential respondent to purchase securities. Information concerning securities holdings and transactions is protected against disclosure under Treasury regulations (31 CFR Part 323) and in certain instances, the Privacy Act. The information may be disclosed only as authorized by law.

The burden hours estimated in the notice of proposed rulemaking have been reduced as a result of a change in the final rules that increases the number of accounts that would be eligible for the reporting exclusion. This change was made in response to a comment received from the public.

Estimated total annual reporting burden: 100 hours.

Estimated average annual burden hours per respondent: 5 hours.

Estimated number of respondents: 20.

Estimated annual frequency of responses: on occasion.

Comments on the accuracy of the estimate for this collection of information or suggestions to reduce the burden should be sent to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Department of the Treasury/Bureau of the Public Debt, Washington, D.C. 20503, with copies to the Government Securities Regulations Staff, Bureau of the Public Debt, Room 515, 999 E Street, NW, Washington DC 20239–0001.

List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government securities, Securities.

For the reasons set forth in the preamble, 31 CFR chapter II, subchapter B, part 356, is amended as follows:

PART 356—SALE AND ISSUE OF MARKETABLE BOOK-ENTRY TREASURY BILLS, NOTES, AND BONDS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 1–93)

1. The authority citation for part 356 is revised to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3102, *et seq.*; 12 U.S.C. 391.

2. Section 356.2 is amended by adding in alphabetical order the definition of ''investment adviser'' to read as follows:

§ 356.2 Definitions.

* * * * *

Investment adviser means any person or entity that has investment discretion for the bids or positions of a person or entity not considered part of the investment adviser under the bidder definitions in Appendix A of this part. Investment discretion includes determining what, how many, and when securities shall be purchased or sold. A person or entity managing investments for itself is not considered an investment adviser for such investments. Where a person is employed or supervised by an entity in connection with his activities as an investment adviser, such person is considered to be part of that entity.

* * * * *

3. Section 356.11(a)(1) is amended by revising the second sentence to read as follows:

§ 356.11 Submission of bids.

(a) *General.*

(1) * * * Except as otherwise provided, tenders must be submitted in an approved format, including the use of preassigned identification numbers, where applicable. * * *

* * * * *

4. Section 356.13 is amended by removing paragraph (a)(2) and redesignating paragraph (a)(1) as paragraph (a). The last two sentences of newly redesignated paragraph (a) are revised to read as follows:

§ 356.13 Net long position.

(a) *Reporting net long positions.* * * * In cases where a bidder that is required to report the amount of its net long position has more than one bid, the bidder's total net long position should be reported in connection with only one bid. A bidder that is a customer must report its reportable net long position through only one depository institution or dealer. (See § 356.14(c).)

* * * * *

5. Sections 356.15 and 356.16 are redesignated as §§ 356.16 and 356.17 respectively and new § 356.15 is added to read as follows:

§ 356.15 Bidding through investment advisers.

(a) *General.* Where bids or positions of a person or entity are controlled by an investment adviser, such bids or positions are considered to be a controlled account, separate from the bids and positions of any person or entity with which they would otherwise be associated under the bidder definitions in Appendix A of this part. The investment adviser may bid for controlled accounts by including, in a bid in the adviser's name, amounts that it is investing for the controlled accounts. The investment adviser may also bid for controlled accounts in the names of such accounts. Where bids are in an investment adviser's name, the investment adviser is considered the bidder for such bids and, where bids are in the name of a controlled account, the named controlled account is considered the bidder, for all purposes of this part 356, except as specified in this § 356.15.

(b) *Noncompetitive and competitive bidding.* Regardless of whether the bid for a controlled account is in the name of the investment adviser or in the name of the controlled account, such account may not be bid for both noncompetitively and competitively in the same auction. In addition, such account is subject to the noncompetitive bidding restrictions and award limitations contained in §§ 356.12(b) and 356.22(a).

(c) *Reporting net long positions.* In calculating the amount of its bids and positions for purposes of the net long position reporting requirement found in § 356.13(a), the investment adviser must include, in addition to what would otherwise be included for the investment adviser as a bidder under the bidder definitions, all other competitive bids and positions controlled by the investment adviser. The investment adviser may exclude any net long position less than $100 million of any nonproprietary controlled account unless the adviser is

placing a competitive bid for that account either in the name of the investment adviser or in the name of the account. However, if any net long position less than $100 million of any nonproprietary account not being bid for is excluded, then all net short positions less than $100 million of nonproprietary accounts not being bid for must also be excluded. Regardless of whether the investment adviser bids in its own name or in the name of its controlled accounts, if the net long position is reportable, it must be reported as a total in connection with only one bid in accordance with § 356.13(a).

(d) *Submitting bids for controlled accounts.* Notwithstanding the definition of submitter found in § 356.2, and the restriction against submitting bids for others found in § 356.14, an investment adviser may submit bids, whether in the adviser's own name or in the names of its controlled accounts, directly to a Federal Reserve Bank or the Bureau of the Public Debt, in which case the investment adviser is considered a submitter. In the alternative, the investment adviser may forward such bids to a depository institution or dealer.

(e) *Certifications.* By bidding for a controlled account, an investment adviser is deemed to have certified that it is in compliance with this part and the offering announcement governing the sale and issue of the security. Further, the investment adviser is deemed to have certified that the information provided on the tender or provided to a submitter or intermediary with regard to bids for controlled accounts is accurate and complete.

(f) *Proration of awards.* In auctions where bids at the highest accepted yield or discount rate are prorated under § 356.20(a)(2) of this part, investment advisers that submit bids for controlled accounts in the names of such accounts are responsible for prorating awards for their controlled accounts at the same percentage as that announced by the Department. The same prorating rules apply to controlled accounts as apply to submitters. See § 356.21 of this part.

6. Section 356.21 is amended by revising paragraph (a) to read as follows:

§ 356.21 Proration of awards.

(a) *Awards to submitters.* In auctions where bids at the highest accepted yield or discount rate are prorated under § 356.20(a)(2) of this part, the Federal Reserve Banks are responsible for prorating awards for submitters at the percentage announced by the Department. For example, if 80% is the announced percentage at the highest yield or discount rate, then each bid at that rate or yield shall be awarded 80% of the amount bid. Hence, a bid for $100,000 at the highest accepted yield or discount rate would be awarded $80,000. In all cases, awards will be for, at least, the minimum to hold, and awards must be in an appropriate multiple to hold. Awards at the highest accepted yield or rate are adjusted upwards, if necessary, to an appropriate multiple to hold. For example, Treasury bills may be issued with a minimum to hold of $10,000 and multiples of $1,000. Where an $18,000 bid is accepted at the high discount rate, and the percent awarded at the high discount rate was 88%, the award to that bidder would be $16,000, representing an upward adjustment from $15,840 ($18,000 × .88) to an appropriate multiple to hold. If tenders at the highest accepted rate were prorated at, for example, a rate of 4%, the award for a $100,000 bid would be $10,000, instead of $4,000, in order to meet the minimum to hold for a bill issue.

* * * * *

7. Section 356.22(b) is amended by revising the last sentence to read as follows:

§ 356.22 Limitation on auction awards.

* * * * *

(b) *Awards to competitive bidders.* * * * When the bids and net long positions of more than one person or entity must be combined as required by § 356.15(c), such combined amount will be used for the purpose of this award limitation.

8. Section 356.36 is revised to read as follows:

§ 356.36 Paperwork Reduction Act approval.

The collections of information contained in §§ 356.11, 356.12, 356.13, 356.14, and 356.15 and in appendix A of this part have been approved by the Office of Management and Budget under control number 1535–0112.

9. Appendix A to Part 356 is amended by adding to section (a) a new paragraph between the second and third paragraphs of the introductory text to read as follows:

Appendix A To Part 356—Bidder Definitions

* * * * *

(a) *Corporation*—* * *

For the purpose of this part, a business trust, such as a Massachusetts business trust or a Delaware business trust, is considered to be a corporation.

* * * * *

Dated: July 9, 1996.

John A. Kilcoyne,

Acting Fiscal Assistant Secretary.

[FR Doc. 96–17896 Filed 7–15–96; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 413

[BPD–647–F]

RIN 0938–AH11

Medicare Program; Reporting of Interest From Zero Coupon Bonds

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule requires Medicare providers to report all interest expense and interest income from zero coupon bonds in the cost reporting period in which the interest was accrued. This final rule is necessary to add provisions to the Medicare regulations that specifically address the reporting by providers of interest expense and income from zero coupon bonds.

EFFECTIVE DATE: This regulation is effective on August 15, 1996.

FOR FURTHER INFORMATION CONTACT: Ann Pash, (410) 786–4615.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1861(v)(1)(A) of the Social Security Act (the Act) defines reasonable cost for any service under Medicare as the cost actually incurred, excluding any cost unnecessary in the efficient delivery of needed health services. That section of the Act also provides that reasonable costs must be determined in accordance with regulations that establish the methods to be used and the items to be included for purposes of determining which costs are allowable for various types or classes of institutions, agencies, and services. In addition, section 1861(v)(1)(A) of the Act specifies that regulations implementing the principles of reasonable cost payment may provide for the use of different methods in different circumstances. This section of the Act is implemented by regulations at 42 CFR part 413. In particular, § 413.24 establishes the methods to be used and the adequacy of data needed to determine allowable costs for various types or classes of institutions, agencies, and services.